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MONTAGE TECHNOLOGY, INC. and
MONTAGE TECHNOLOGY CO., LTD.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NETLIST, INC.,)	Case No.: 5:22-mc-80337
)	
Plaintiff,)	DEFENDANTS' STATEMENT IN
)	SUPPORT OF NETLIST INC.'S
v.)	ADMINISTRATIVE MOTION TO
)	CONSIDER WHETHER ANOTHER
MONTAGE TECHNOLOGY, INC. and)	PARTY'S MATERIAL SHOULD BE
MONTAGE TECHNOLOGY CO., LTD.,)	SEALED
)	
Defendants.)	
)	
)	

Pursuant to Civil Local Rule 79-5, Defendants Montage Technology, Inc. and Montage Technology Co., Ltd. ("Defendants" or "Montage") file this statement in support of Plaintiff Netlist Inc.'s ("Plaintiff" or "Netlist") Administrative Motion to Consider Whether Another Party's Material Should Be Sealed (Dkt. No. 22; "Administrative Motion") and Declaration of Jason R. Bartlett in support. Defendants respectfully request that the Court seal the unredacted version of Netlist's Reply in support of its motion to compel at 5:12-18 (diagram), filed conditionally under seal as Dkt. No. 22-4, and a redacted public version of which was filed as Dkt. No. 23 ("Netlist's Reply").

1 A redacted portion of Netlist's Reply at 5:12-18 contains a circuit from certain
2 confidential data sheets which Montage produced to Plaintiff in connection with its subpoenas.
3 The data sheets contain technical information about Montage products which Montage maintains
4 confidential and does not disclose to third parties except pursuant to non-disclosure agreements.
5 Disclosure of this redacted portion of Netlist's Reply would cause Montage competitive harm at
6 least because it discloses the non-public technical details of the structure and function of
7 Montage computer components. Montage does not maintain that certain other redacted portions
8 of Netlist's Reply.

9 Therefore, in accordance with Pursuant to Local Civil Rule 79-5(c)(1), the Confidential
10 Documents contain financial and technical details that are confidential and, if revealed, would be
11 harmful to Montage's competitive standing. *See Dugan v. Lloyds TSB Bank, PLC*, No. 12-cv-
12 2549-WHA (NJV), 2013 WL 1435223, at *2 (N.D. Cal. Apr. 9, 2013) ("There may be 'good
13 cause' to seal records that are privileged, contain trade secrets, contain confidential research,
14 development or commercial information, or if disclosure of the information might harm a
15 litigant's competitive standing.") (citation omitted); *see also Verinata Health, Inc. v. Sequenom,*
16 *Inc.*, No. C 12-00865 SI, 2014 WL 12789020, at *1-2 (N.D. Cal. Aug. 8, 2014) (granting motion
17 to seal information that poses a substantial risk of negatively impacting relationships and
18 competitive interests); *Transperfect Global, Inc. v. Motionpoint Corp.*, No. C 10-2590 CW, 2013
19 WL 209678, at *1-2 (N.D. Cal. Jan. 17, 2013) (granting motion to seal exhibits that contained
20 proprietary information about the sealing party's business operations). "One factor that weighs
21 in favor of sealing documents is when the release of the documents will cause competitive harm
22 to a business." *Apple Inc. v. Samsung Electronics Co.*, 727 F.3d 1214, 1221 (Fed. Cir. 2013); *see*
23 *also Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978) ("courts have refused to permit
24 their files to serve . . . as sources of business information that might harm a litigant's competitive
25 standing"). The release of the redacted diagram at 5:12-18 of Netlist's Reply would cause
26 irreparable harm to Montage if made public.

1 Dated: January 24, 2023

Respectfully Submitted,

2 MAURIEL KAPOUYTIAN WOODS LLP

3 By: /s/ Jason R. Bartlett

4 JASON R. BARTLETT

JASON A. CROTTY

5 *Attorneys for Defendants*

6 MONTAGE TECHNOLOGY, INC. and
7 MONTAGE TECHNOLOGY CO., LTD.